

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:08CV388

**RONALD B. SCHMOLL, and)
GERLIND R. SCHMOLL, JT TEN;)
RONALD B. SCHMOLL ROTH IRA;)
RONALD B. SCHMOLL ROLLOVER)
IRA; and GERLIND R. SCHMOLL)
ROLLOVER IRA,)**

Plaintiffs,)

Vs.)

KENNETH J. PUJDAK,)

Defendant.)

ORDER

THIS MATTER is before the Court on the Plaintiffs' motion to confirm an arbitration award and entry of default judgment against the Defendant Kenneth J. Pujdak.

Default judgments are entered after a party has been declared in default. **See Fed. R. Civ. P. 55.** No entry of default appears of record. Nor have Plaintiffs shown by affidavit or otherwise that Defendant has been duly served with the summons and complaint, and that after such service of process, he has failed to plead or otherwise respond to the Plaintiff's

complaint herein. It, therefore, appears the motion for default judgment is premature.

IT IS, THEREFORE, ORDERED that the Plaintiff's motion to confirm arbitration award and for default judgment is **DENIED** without prejudice.

Signed: April 1, 2009

A handwritten signature in dark ink, appearing to read 'Lacy H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

